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Lynne Krasnow
Hydro Program
National Marine Fisheries Service
525 NE Oregon Street
Suite 500
Portland, Oregon 97232-2737

Federal Caucus
C/O Jenifer Miller
BPA-P-6
P.O. Box 3621
Portland, Oregon 97208

Re: Idaho Power Company comments to *Draft Biological Opinion - Operation of the Federal Columbia River Power System* and draft final *Basin-wide Salmon Recovery Strategy - aka A 11-H Paper*

Dear Ms. Krasnow and Miller:

On July 27, 2000, the National Marine Fisheries Service (NMFS) released a *Draft Biological Opinion- Operation of the Federal Columbia River Power System (Draft BO)* and the Federal Caucus released a draft final *Basin-wide Salmon Recovery Strategy - aka A11-11 Paper (A 11-H Paper)*. I understand the purpose for the release of these drafts was to offer an opportunity for state and tribal governments to complete a technical review of the draft documents and submit comments.

The undersigned represents the Idaho Power Company (IPC); an investor owned utility with its principal place of business in Boise, Idaho. IPC owns and operates 16 hydroelectric plants on the Snake River and its tributaries that are licensed by the Federal Energy Regulatory Commission (FERC). It also holds an interest in three coal-fired generating stations. IPC provides electric service to approximately 380,000 customers within a 20,000 square-mile service area covering portions of southern Idaho, eastern Oregon and northern Nevada.

The largest hydroelectric facility on the IPC system is the Hells Canyon Complex (HCC) consisting of the Brownlee, Oxbow and Hells Canyon dams. By opinion and order issued by the Federal power Commission (now FERC) on August 4, 1955, IPC was granted a license to construct and operate these three hydropower projects in the Hells Canyon reach of the Snake River. While separate applications were filed for each of the projects, the three were consolidated in the FERC order issuing the license and have since been collectively referred to as the Hells Canyon Complex, FERC Project No. 1971. The three facilities are located at RM 247-Hells Canyon Dam, RM 273-Oxbow Dam and RM 285-Brownlee Dam. The Brownlee facility,

uppermost of the three, is the primary storage reservoir for IPC. The HCC is located on the Snake River upstream from Lewiston, Idaho and four lower Snake River federal dams (Ice Harbor, Lower Monumental, Little Goose and Lower Granite).

The current FERC license for the HCC expires in 2005. IPC is presently engaged in a collaborative relicensing process with the intent of filing a final license application by July 2003. Numerous interests are represented in this collaborative process including state and federal resource agencies, Native American Indian Tribes and numerous smaller public and private interests. In preparation for the filing of a license application, IPC has initiated various aquatic studies relating to the HCC. These studies were developed in conjunction with the collaborative process with input from collaborative team members. IPC anticipates that the majority of the studies currently underway will be completed in 2001 in order to allow for the preparation of a draft license application by late that year or early 2002.

IPC is also involved in a formal consultation process under the Endangered Species Act (ESA) relating to operations of the HCC in advance of the issuance of a new license. Formal consultation was initiated at the request of the National Marine Fisheries Service (NMFS) in reaction to a *Biological Assessment of the Hells Canyon Complex Operations* (BA) issued by FERC on February 19, 1999. In that BA, FERC determined that the interim operation of the HCC, in advance of issuance of a new license, is not likely to adversely affect listed Snake River salmon, or the critical habitat of salmon, and will not result in the destruction or adverse modification of the proposed critical habitat of steelhead. Upon review of the BA, NMFS, by letter dated March 24, 1999, expressed its non-concurrence with FERC's determination and initiated formal consultation. At the request of NMFS, the completion of the consultation process was extended beyond that contemplated by the applicable regulations. By letter dated September 17, 1999, NMFS advised that it expected to complete consultation by February 29, 2000. In fact, consultation has extended beyond that date and on July 27, 2000, NMFS submitted a draft biological opinion on the operations of the HCC in advance of the issuance of a new license to FERC for review and comment. IPC, as the licensee of the HCC, is currently completing its review of the HCC draft biological opinion and intends to submit written comments to the draft as contemplated by applicable regulations.

During the course of IPC's preparation for the relicensing of the HCC, and most recently while formal consultation on the current license operations has been underway, various federal agencies have issued draft resource documents addressing fishery resource issues in the Columbia River basin. Where appropriate, IPC has submitted written comments to these draft documents.¹ In each instance that written comments were submitted, IPC has offered three basic observations:

¹ The draft reports/documents to which IPC has submitted comments include: draft *A 11-H Paper: Conservation of Columbia Basin Fish - Building a Conceptual Recovery Plan* (Federal Caucus); draft *Lower Snake River Juvenile Salmon Migration Feasibility Report/Environmental Impact Statement* (U.S. Army Corps of Engineers); and *Recommendations for Amendments to the Columbia River Fish and Wildlife Program* (Northwest Power Planning Council). Copies of IPC's comments to these documents are available from IPC.

1. Theory should not outstrip science. - With specific reference to the ongoing efforts of IPC to undertake the studies necessary for the relicensing of the HCC, IPC cautioned the federal agencies to not prejudge issues relating to the HCC in advance of the completion of those studies.
2. Responsibility counts. - In large part, federal agencies propose to assign equal responsibilities for remediation of the fishery resources on all members of the Snake River's community. This is inequitable, both for all of southern Idaho and for IPC. IPC has addressed past effects of the HCC on fishery resources through the 1980 Settlement Agreement and continues to address current or potential effects of the HCC through its Fall Chinook Plan and ongoing studies initiated in the connection with relicensing. Moreover, it has cooperated with federal interests in the implementation of measures invoked by the 1995 Biological Opinion that were intended to avoid jeopardy of the FCRPS. In light of those and other efforts initiated by IPC and Idaho interests, using a broad brush in assessing contribution to the recovery of the fishery resources without addressing responsibility is inappropriate.
3. The alleged efficacy of flows. - The assertion that flows from the upper Snake River are efficacious is wrong, it is wrong both generally, in terms of the alleged correlation between flows from all of Idaho and fish survival, and specifically in the assertion that the HCC operations could substantially assist salmon survival in the lower Snake and Columbia rivers.²

While these observations seem to also apply to the *Draft BO* and *All H Paper*, IPC understands that the purpose for the release of these draft documents is to allow state and tribal governments an opportunity for review and comment. IPC will therefore reserve its specific comments to the *Draft BO* and *All - H Paper* for the formal consultation process pending before FERC on the HCC. To the extent that provisions of the *Draft BO* or the *A 11-H Paper* are referenced or relied upon in the HCC draft biological opinion issued by NMF S on July 27th, IPC will address those issues in its comments to that draft biological opinion.

Very truly yours,

James C. Tucker

² In this regard, IPC agrees with the analysis and comments submitted by the Idaho Water Users Association and Committee of Nine to the *Draft BO*.